

Lead Safe Cleveland Coalition

Policy Recommendations – FINAL DRAFT 4.26.2019

PREVENTION RECOMMENDATIONS

Lead Safe Certificate

1. Mandate a Lead Safe Certificate for all rental units built before 1978. The mandatory, proactive certificate should be established by the completion of third-party inspections.
 - Consider allowing exemptions for:
 - Fully renovated and/or majorly rehabbed rental units that have passed an initial clearance examination.
 - Rental units that are already required to be lead safe under federal law.
 - Consider allowing exemptions during the initial Lead Safe Certificate cycle for:
 - Rental units that have recently passed randomized lead dust wipe inspections conducted by the Department of Building and Housing.
 - The Lead Safe Certificate should attach to the land and transfer upon sale.
 - The Lead Safe Certificate should be valid for two years.
 - Adhere to the U.S. Housing and Urban Development (HUD) Sampling Standards for multi-unit buildings. If one of the rental units in the applicable sample is found to have lead hazards, mandate an inspection of all rental units.
2. Mandate clearance examinations by certified clearance technicians or certified lead risk assessors OR risk assessments by certified lead risk assessors as acceptable inspections to earn a Lead Safe Certificate.
 - If preferred by landlord or property owner, permit a risk assessment that finds a rental unit to be “lead free” to earn a Lead-Free status.
 - A Lead-Free status should be determined by administrative rule.
 - If a property fails the clearance examination or risk assessment and requires remediation, a subsequent clearance examination must be accompanied with a verification that remediations were completed by a certified Renovation, Repair and Painting (RRP) contractor using lead safe work practices.

Implementation of the Lead Safe Certificate

3. Roll out the Lead Safe Certificate in two parts.
 - Ramp-Up (Year 1): The time period from the passage of the Lead Safe Certificate mandate to the first phase of Lead Safe Certifications is one year. The ramp-up time allows for: 1) workforce development, 2) resource development, 3) implementation preparation, and 4) grace period/incentive period for early adopters (landlords who certify their rental units as lead safe during year 1).
 - Phase-In (Years 2 and 3): After the Ramp-Up period, create a two-year Lead Safe Certification cycle that is phased in every quarter according to 8 rental inspection areas.
 - 8 rental inspection areas should be modelled on the existing Department of Building and Housing rental inspection areas but determined by ZIP code. The 8 rental inspection areas build on success of the existing rental inspection areas, manage caseload (approximately 8,000 unit per quarter), distribute costs to

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landlords over time, support a viable, year-round workforce, and avoid legality issues associated with targeted enforcement.

4. The Lead Safe Certificate mandate should target resources, as opposed to targeting enforcement.
 - Resources should be targeted based on:
 - High-risk areas (high-risk could be defined by address where screened child lives and/or properties identified as having lead hazards).
 - Need of tenants (need could be defined by eligibility for other programs, like Home Energy Assistance Program (HEAP)).
 5. Incentivize early Lead Safe Certificate adoption by providing inspection vouchers to landlords or property owners registering rental units with the Rental Registry during the Ramp-Up period.
 - Vouchers should only be available for vetted inspectors, limited to a certain number per company/inspector, and administered through a community-based program.
 6. To support the ability to implement a high functioning Lead Safe Certificate system, increase the appropriation for the Department of Building and Housing.
 - The appropriation should support software to maintain a publicly accessible database with list of Lead Safe homes.
 - The appropriation should support increased enforcement of the Rental Registry, the implementation of the new Lead Safe Certification, and the tracking and enforcement of rental units that are noncompliant.
- ### **Enforcement and Evaluation of the Lead Safe Certificate**
7. Lead with civil penalties, rather than criminal penalties, in both the new Lead Safe Certificate system and the existing Rental Registry.
 - Establish civil penalties for Lead Safe Certificate non-compliance, as opposed to the creation of new criminal penalties.
 - Add civil penalties to the existing criminal penalties for rental registry non-compliance.
 - Prevent contributing to racial inequities by not creating additional criminal penalties.
 8. Require regular monitoring, impact analysis, and public reporting on the Lead Safe Certificate and of the Lead Safe Certificate system.
 - An impact analysis should track metrics developed, in part, with Lead Safe Cleveland Coalition.
 9. Create a position of Lead Safe Auditor to provide independent quality control of the Lead Safe Certificate.
 - The Lead Safe Auditor should be responsible for:
 - Coordinating regular monitoring and reporting on the Lead Safe Certificate system;
 - As needed, enhancing U.S. Environmental Protection Agency (EPA) and Ohio Revised Code standards for inspections and remediation;
 - Serving as a clearinghouse for certified and vetted inspectors and contractors;

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- Recommending incentives and improvements for ongoing compliance.
- The Lead Safe Auditor could be housed in the Department of Building and Housing, serve in a cross-departmental capacity, and/or be appointed by City Council.

10. Create a position of Lead Safe Ombudsperson to serve as a public-facing resource to members of the community who are impacted by the Lead Safe Certificate system.

- The Lead Safe Ombudsperson should be responsible for:
 - Representing the interests of the public by investigating complaints of noncompliance of the Lead Safe Certificate standards;
 - Resolving disputes between parties including: tenants, landlords, contractors and inspectors.
 - Recommending improvements in the Lead Safe Certificate procedures, policies, and practices.
- The Lead Safe Ombudsperson could be appointed by the City of Cleveland and/or housed in an independent agency with authority and resources.

11. Include explicit language that triggers automatic policy reevaluation if certain impacts (see #7) are identified.

- This recommendation is a version of Rochester's "Korfmacher Compromise" to safeguard against unintended consequences such as housing insecurity and homelessness.

Lead Safe Home Fund and Other Resources

12. Seed the Lead Safe Home Fund with a City of Cleveland appropriation.

- As conceptualized by the Lead Safe Cleveland Coalition, the Lead Safe Home Fund will:
 - Prioritize resources by need but still make resources widely accessible;
 - Fund a sliding scale of subsidies to support remediation work ranging from interim controls to full abatement, inspection subsidies, training for inspectors and contractors, emergency transitional housing support, and other direct services as needed by families and children;
 - Be operated by an independent third party.

13. Revise the reestablished Department of Community Development paint program to allow interior painting, in addition to exterior use.

- Coordinate the paint program with the Lead Safe Resource Center and require the necessary training for any participant who intends to access the program to address lead hazards.

Intersections and Systems Change

14. Tenant protections should be increased.

- Include explicit language stating protections against retaliation for tenants who report landlord non-compliance with Lead Safe Certificate system.
- Add "Source of Income" as a protected class in local anti-discrimination law to advance equitable housing choice and increased mobility.

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- Establish a Right to Counsel program to provide representation for low-income families facing eviction.

15. Require all projects using City of Cleveland funding to be lead safe and/or to employ lead safe work practices, as defined by administrative rule.

16. Require proof of the appropriate U.S. EPA-compliant RRP training as a part of applicable contractor registration.

- Applicable contractors are those who are disturbing paint in rental units and day care centers built before 1978.

SCREENING + TESTING RECOMMENDATIONS

17. Establish a council for cross-system coordination of screening and testing that shares information and data, coordinates services, and assesses gaps.

- This Council should:
 - Establish best practices that allow for the efficient and effective coordination of services for families who are at risk of or have been exposed to lead hazards;
 - Establish information sharing agreements between organizational members;
 - Partner with the Healthy Homes Advisory Council to implement screening and testing recommendations.
- Include as statutory members representatives from sectors and organizations such as:
 - At least one parent or caregiver living in the City of Cleveland
 - At least one provider from an early childhood education setting
 - Cleveland Department of Public Health
 - Cleveland Metropolitan School District
 - Catholic Charities
 - Cleveland Transformation Alliance
 - Charter School System
 - Religious School System
 - Cuyahoga County Invest in Children
 - Cuyahoga County Board of Health Early Ages Healthy Stages Coalition
 - Cleveland Department of Law
 - Cuyahoga County Family and Children First Council
 - Medicaid Managed Care Organizations operating in the City of Cleveland
 - FQHCs operating in the City of Cleveland
 - Head Start
 - Other major healthcare institutions operating in the City of Cleveland

18. Require projects and programs operated by the City of Cleveland or supported with City of Cleveland funding that primarily serve children ages 0-6 and pregnant woman to provide a screening (appropriately adapted Healthy Homes Advisory Council (HHAC) or similar questionnaire), to offer a referral for testing, and to provide lead poisoning prevention education.

- Lead poisoning prevention education – for families and providers - should be streamlined across all projects and programs and reflect a consistent, unified message, appropriate for diverse audiences, and developed in conjunction with the Lead Safe Cleveland Coalition.

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- Lead poisoning prevention education should articulate the significance of coordination with a medical home.
- Referrals should be to appropriate testing entities.

19. Instruct the Department of Public Health to re-focus screening and testing efforts to community programs and organizations where children ages 0-6, particularly children aged 12-24 months, are likely to be.

- Re-focus and, where appropriate, increase resources dedicated to Department of Public Health screening and testing toward early childhood education settings in high-risk areas and other places where children congregate like libraries, recreation centers, and WIC offices.

20. Instruct the Department of Public Health to explore a pilot program that would provide on-site and/or mobile screening, testing, and/or testing referrals, and report back to City Council the findings.

- Answer the questions: what would it take to create an effective mobile screening and testing program? Would this approach contribute positively and appropriately to improving lead testing rates across Cleveland?

21. In partnership with the Lead Safe Cleveland Coalition, urge the State of Ohio to create a more detailed, timely, and enforceable database on testing that includes city, county, and state records.

TREATMENT + INTERVENTIONS RECOMMENDATIONS

22. To more quickly process an anticipated increase in lead hazard control order case load, increase appropriation for the Departments of Public Health and Law.

- Lead Safe Cleveland Coalition outreach in combination with the new Lead Safe Certificate system will likely contribute to an uptick in lead hazard control orders.

23. Instruct the Department of Community Development to prioritize in Community Development Block Grant (CDBG) program funding criteria to those projects that focus on or include lead poisoning prevention.

24. Establish an action team, comprised of representatives from City of Cleveland-funded housing providers, to support families who relocate as a result of lead poisoning or a lead hazard control order.

- The action team should establish a pool of available housing units for families facing relocation due to lead poisoning;
- The action team should troubleshoot obstacles that emerge during emergency relocation;
- Based on its work, the action team could produce a set of recommendations to create a larger and better relocation pipeline. For example, advocate for donated houses to support temporary relocation of families.

25. Mandate that Certificates of Disclosure include the lead status of property.

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- If there is a current, open lead hazard control order on a property it should be disclosed on the rental registry as well as disclosed during applicable property transfers.
- Certificates of disclosure could include copies of the lead hazard violations, both open and closed. This is especially important if there were interim controls that require maintenance.

26. Mandate landlords to fully disclose to tenants when a rental unit is under a lead hazard control order.

- Disclosure includes directly sending tenants copies of the lead hazard control order, inspections reports, extensions, and notices that a property cannot be re-rented
- Disclosure should also include pertinent information regarding the Lead Safe Resource Center and action team.

27. In conjunction with the Lead Safe Cleveland Coalition, explore rent deposit and escrow tools for future policy recommendations.

- Explore both an expanded version of the existing rent deposit program as well as alternatives, such as declaring properties as worth zero rent while under a lead hazard control order.
- Include a study of:
 - Benefits and challenges.
 - Similar programs like the City of Detroit's Rent Property Escrow Program.

EDUCATION + OUTREACH RECOMMENDATIONS

28. Create a Lead Safe Resource Center, in coordination with the Lead Safe Home Fund, to serve as a “one stop shop” for landlord training, vetted workforce directory, equipment rental, lead 101 information, resources, hotline, and process navigation.

- Similar to the Lead Safe Home Fund, seed the Lead Safe Resource Center alongside with other public, private, and philanthropic partners.
- To ensure transparency, the City should facilitate a competitive RFP process to select one or more community-based organizations to serve as Resource Center.
- City will set metrics and monitor success in coordination with the Lead Safe Cleveland Coalition.

29. The Lead Safe Resource Center should provide subsidized, two-part training courses during Lead Safe Certificate Ramp-Up and Phase-In periods.

- To access subsidized training courses, participants should be required to attend and pass a standard in-class training and follow-up field training.
- Trainings opportunities should include clearance technician training, RRP contractor training, and lead abatement contractor training.
- Consider funding other complementary, community-based workforce development programs for inspectors, contractors, and trainers during Lead Safe Certificate Ramp-Up period.

30. Release an annual report to the community on City of Cleveland lead poisoning prevention related efforts.

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- Include updates, progress, and challenges on all prevention, screening + testing, treatment + intervention, and education + outreach efforts across departments.
- Detail efforts such as: early intervention and other referrals, inspections results, disclose lead hazard control orders, remediation work, number of children who have tested positive for lead, number of rental units that have passed clearance/assessment, number of rental units that have failed clearance/assessment.
- Coordinate with the Lead Safe Cleveland Coalition to also measure and report community efforts.

31. Require organizations offering public housing or subsidized housing vouchers in the City of Cleveland to annually report to the City the history and status of inspections and the status of their Lead Safe Certificates.

- Subsidized housing providers include Cuyahoga Metropolitan Housing Authority (CMHA), EDEN, etc.
- Once fully implemented, advance the reporting system from annually to quarterly.

32. Require early childhood education providers, Cleveland Metropolitan School District (CMSD), and private and religious school systems operating in the City of Cleveland to provide lead poisoning prevention education to students and families.

- Lead poisoning prevention education should be streamlined across all projects and programs and reflect consistent, unified messages to be developed in conjunction with the Lead Safe Cleveland Coalition.

33. Starting when the Phase-In period ends, require landlords to disclose the Lead Safe Certificate status to current tenants and any tenants with a new, renewed, or updated lease agreement; mandate a small statutory damage penalty for non-compliance.